

## **REMARKS**

In the Office Action, the Examiner noted that claims 1-53 are pending in the application, and that claims 1-53 are rejected. By this Amendment, claims 1 and 2 have been amended. Thus, claims 1-53 are pending in the application. The Examiner's rejections are traversed below.

### **Objection**

Claim 1 stands objected to for informalities. Claim 1 has been amended to correct the noted typographical error. Applicant wishes to thank the Examiner for the careful review. Withdrawal of this objection is respectfully requested.

### **Information Disclosure Statement**

The IDS dated 11/13/2001 (paper no. 7) has not been considered by the Examiner because the Examiner contends the IDS fails to comply with PTO-1449 Form. Applicant is resubmitting that IDS. However, in the future, Applicant would kindly request the Examiner to consider the prior art reference and list on the corresponding PTO-892 Form. Reconsideration of the IDS is respectfully requested.

### **Rejection Under 35 U.S.C. Section 112**

Claim 2 stands rejected under 35 U.S.C. Section 112, Second Paragraph, for failing to particularly point out and distinctly claim the subject matter that Applicant regards as the invention. Applicant traverses this rejection because clearly the informality the Examiner has noted is not an indefiniteness issue. Rather, Applicant believes that the informality noted by the Examiner does not render the claim so unclear, and therefore, Applicant is correcting the noted informality regarding same.

Accordingly, Applicant respectfully submits that Claim 2 satisfies the requirements under 35 U.S.C. Section 112, Second paragraph. Withdrawal of this rejection is respectfully requested.

### **Prior Art Rejections**

Claims 1, 2 15, 16, 20, 31, 32, 35, 36, 44, 45 and 48-53 stand rejected under 35 U.S.C. Section 102 as being anticipated by Wichter, U.S. Patent 5,608,643.

Claims 3, 4, 13, 14, 17, 18, 25, 27-30, 33, 34, 41, 42, 43, 46 and 47 stand rejected under 35 U.S.C. Section 103 as being unpatentable over Wichter.

Claims 5-10 and 19 stand rejected under 35 U.S.C. Section 103 as being unpatentable over Wichter in view of Petite, U.S. Patent 6,628,764.

Claims 11,12, 21-24, 26, 37-40 and 42 stand rejected under 35 U.S.C. Section 103 as being unpatentable over Wichter in view of Weigen, U.S. Patent 6,578,728.

Applicant respectfully traverses these rejections.

First, Applicant respectfully submits that Weigen, U.S. Patent 6,578,728, is **NOT prior art**. Weigen's earliest priority date is February 10, 2000, wherein the present application claims priority to October 28, 1999. Withdrawal of the rejection using Weigen is respectfully requested, i.e., claims 11,12, 21-24, 26, 37-40 and 42.

With respect to the prior art cited by the Examiner, Applicant nevertheless discusses the prior art, and the patently distinguishing characteristics of the present invention thereover, when each claim is interpreted as a whole.

Wichter merely relates to a system for managing multiple dispensing units by communicating information through a communications network. Each dispensing unit

includes a plurality of bins operable to hold a quantity of product. Each dispensing unit includes a plurality of reference level sensors where each reference level sensor is coupled to an associated bin. Each reference level sensor is operable to determine when the quantity of product in the associated bin drops below a reference level that is higher than an out of stock level of the associated bin. Each dispensing unit also includes a controller subsystem that monitors conditions of the dispensing unit, to transmit status messages responsive to an occurrence of one of a plurality of defined events, and to receive command messages. Thus, Wichter is designed to work with individual dispensing units.

Petite relates to an automated system for monitoring and supplying a vending machine. The system includes a set of sensors configured to detect a variety of service conditions, including products being low or out of stock, as well as, out of order conditions. The sensors generate output signals that are input to a transmitter or transceiver disposed at the vending machine. The transmitter includes circuitry that encodes the signals received from the sensors into a message that includes an instruction code. A transceiver includes circuitry for transmitting the encoded message until the message is received by a transceiver integrated with a device that can access the public switched telephone network.

Weigen relates to a message delivery system for paper dispensers having a housing for dispensing paper, audible message delivery annunciator, switch mechanism, timer and speaker. The annunciator stores and delivers a message when the switch is closed, the speaker provides an audible output of the message, the switch triggers when paper is dispensed and the timer controls the length of the message and supply of power.

Therefore, patents cited by the U.S. Patent Office Examiner generally relate to inventory management and the ability of machine owners and/or route attendants to efficiently service the machines. The cited patents do not even recognize the problem of how to ascertain consumer purchasing habits from aggregated vending machine data, let alone offer a solution to the problem.

For example, none of the above patents appear to disclose or suggest aggregating data from each of a plurality of vending machines and performing a statistical analysis on the aggregated data. That is, the prior art references do not teach or suggest, for example, aggregating the data from each of a plurality of machines and performing a statistical analysis on the aggregated data. The prior art, does not, therefore, teach or suggest, for example, mining the aggregated data to determine, for example, en masse consumer purchasing habits and/or preferences.

In addition, none of the prior art patents teach or suggest, for example, simultaneously collecting and/or providing the means to simultaneously collect (e.g., interfaces, gateways, etc.) vending machine data from a plurality of different types of machines having a plurality of data protocols. That is, none of the prior art patents show or suggest providing a gateway and interface system for receiving data from a plurality of machines communicating over a plurality of data protocols.

Further, none of the prior art patents appear to teach or suggest, for example, allowing a third party to access via the Internet or other network the aggregated data to perform statistical analyses and or mine the data for their own particular needs. Finally, none of the above patents teaches or suggests providing vending machine advertising based, for example, on current inventory of a particular machine and/or statistical analysis of the aggregated data.

The Examiner states in the Office Action on page 4, that at Column 3, lines 51-67, Wichter shows the claimed feature of “a plurality of data generating machines each transmitting data pertaining to at least one monitored sales event, said at least one monitored sales event capable of corresponding to a plurality of different products from a plurality of sales, distribution or manufacturing sources effectuated or managed by each of said plurality of data generating machines.” **Applicant disagrees.** Specifically, Column 3, lines 51-67 of Wichter states:

FIG. 1 illustrates a block diagram of a system for managing multiple dispensing units, indicated generally at 8, constructed according to the teachings of the present invention. System 8 includes a plurality of dispensing units 10. Each dispensing unit 10 communicates information through a communications network 12 to a dispensing unit controller system 14.

In operation, dispensing unit 10 transmits information to and receives information from dispensing unit controller system 14 through communications network 12. Similarly, dispensing unit controller system 14 transmits information to and receives information from dispensing unit 10. Communications network 12 comprises an appropriate communications medium that may comprise, for example, a cellular radio network, a wide area radio frequency network, or a satellite network.

Without conceding that Wichter shows any of the features of the present invention, Applicant respectfully submits that **nowhere in this section of Wichter** is there disclosed, for example, “said at least one monitored sales event capable of corresponding to a **plurality of different products from a plurality of sales, distribution or manufacturing sources.**”

In addition, on page 4 of the Office Action, the Examiner states that Column 5, lines 32-51 of Wichter shows the claimed feature of “at least one computer . . . receiving and cumulatively storing the data transmitted by each of said plurality of data generating machines corresponding to a predetermined time period.” **Applicant disagrees.** Specifically, Column 5, lines 32-51 of Wichter states:

Data interface 22 is not a feature of all types of dispensing units, but is a feature of some conventional dispensing units. Data interface 22 is coupled to the physical subsystem of dispensing unit 10 and monitors physical features of dispensing unit 10. Some dispensing units 10 have a data interface 22 comprising a sophisticated electronic coin mechanism, or other electronic means, that keeps a

sales history in addition to counting sales by each bin 20. In this case, data interface 22 of dispensing unit 10 is operable to provide this information. Where data interface 22 exists, controller 26 interfaces with data interface 22 to acquire information. In one embodiment of the present invention, data interface 22 comprises a DEX/UCS port.

Reference level sensors 24 operate to sense the quantity of product in each bin 20 and to transmit this information to controller 26. In one embodiment of the present invention, reference level sensors 24 operate to determine when the quantity of product in each bin 20 is at a reference level and when each bin 20 is out of stock.

Without conceding that Wichter shows any of the features of the present invention, Applicant respectfully submits that **nowhere in this section of Wichter** is there disclosed, for example, “at least one computer . . . receiving and **cumulatively storing** the data transmitted by each of said plurality of data generating machines **corresponding to a predetermined time period.**” Wichter only discloses level sensors and the like relating to a specific quantity of a product.

In addition, on page 4 of the Office Action, the Examiner states that Column 14, lines 19-30 of Wichter shows the claimed feature of “including at least one application software program running thereon that analyzes the aggregated data.” **Applicant disagrees.** Specifically, Column 14, lines 19-30 of Wichter states:

A user can perform a number of additional functions. A user can collect dispensing unit sales history information by controlling the collection of history information by dispensing unit and by time period. Various reports and analyses can be generated from this history information held by history file 52 in database 42. A number of reports, including current status, daily, weekly, and monthly reports are available to the user through operator interface 56. Such reports

further include a change in sales volume report, a multiple out of stock report and a cash receipts report.

Without conceding that Wichter shows any of the features of the present invention, Applicant respectfully submits that **nowhere in this section of Wichter** is there disclosed, for example, “including at least one application software program running thereon that **analyzes the aggregated data.**” Wichter only discloses reports based on a single dispensing system, but clearly **does not disclose** analyzing aggregated data received in the present invention from a plurality of dispensing systems.

In addition, on page 4 of the Office Action, the Examiner states that Column 8, lines 48-57 of Wichter shows the claimed feature of “wherein said plurality of data generating machines is capable of transmitting the data utilizing a plurality of data formats, and wherein said at least one computer stores the plurality reformats and at least one of reformats and interprets the transmitted data utilizing at least one of said plurality of data formats prior to cumulatively storing the transmitted data.” **Applicant disagrees.** Specifically, Column 8, lines 48-57 of Wichter states:

Messages transmitted by dispensing unit controller system 14 to a dispensing unit 10 have different formats depending upon the purpose of the message and the characteristics of dispensing unit 10. In this embodiment of the present invention, each message is in an ASCII data format and begins with a command field. The format of the remaining parts of the message record is unique for each message. Message commands include system reset, system initialization, bin initialization, status request, time initialization, and software initialization.

Without conceding that Wichter shows any of the features of the present invention, Applicant respectfully submits that **nowhere in this section of Wichter** is there disclosed, for example, “plurality of data generating machines is capable of transmitting the data utilizing a plurality of data formats.” Wichter only discloses the transmitting of

data within a dispensing unit. In addition, **nowhere in this section of Wichter** is there disclosed, for example, “computer stores the plurality formats and at least one of reformats and interprets the transmitted data utilizing at least one of said plurality of data formats prior to cumulatively storing the transmitted data.”

In addition, even more puzzling is that the Patent Cooperation Treaty (PCT) Examiner held that all Claims 1-53 were novel and of inventive step. Specifically, the PCT Examiner stated that the Claims were in effect patentable, for example,

“...because the prior art does not teach or fairly suggest receiving and commutatively string the data transmitted by each of said plurality of data generating machines corresponding to a predetermined time period, and including at least one application software program running thereon that analyzes the aggregated data.”

Note that the above patents are not related to or concerned with, for example, aggregating data from a plurality of machines that accumulate, obtaining and/or storing data, such as vending machines, or performing a statistical analysis on such aggregated data, particularly where the machines have different data transmission protocols and/or different data interfaces. Instead, the above patents primarily relate to an inventory sensing system for providing a continuous update of the inventory in a single vending machine, and does not, for example, relate to aggregating such data from a plurality of vending machines.

Thus, inventory management in the above patents generally relates to the ability of machine owners and/or route attendants to efficiently service the machines. The above patents, therefore, do not appear to even recognize the problem of how to ascertain consumer purchasing habits from aggregated vending machine data, let alone offer a solution to the problem.



Without conceding that the prior art cited by the Examiner discloses any features of the presently claimed invention, independent claim 1, recites one or more of the above features that are submitted to be not shown or suggested by the prior art. Specifically, claim 1 recites “A system for aggregating and analyzing data from a plurality of data generating machines.” Claim 1 also recites that the “plurality of data generating machines each transmitting data **pertaining to at least one monitored sales event**, said at least one monitored sales event capable of corresponding to a **plurality of different products from a plurality of sales, distribution or manufacturing sources** effectuated or managed by each of said plurality of data generating machines.” Claim 1 also recites “at least one computer responsively connectable **to said plurality of data generating machines** via said at least one of a terrestrial, Internet, satellite and landline network, receiving and **cumulatively storing** the data transmitted by each of said plurality of data generating machines corresponding to a predetermined time period.” Claim 1 further recites “at least one application software program running thereon **that analyzes the aggregated data**.”

Applicants respectfully submit that this combination of features recited in independent claim 1 patentably distinguish over Stapp alone or in combination with Horne et al., when claim 1 is interpreted as a whole. Withdrawal of the rejections is respectfully requested.

Independent claims 15 and 31 are of substantially similar scope, although each recite their own specific combination of elements. Accordingly, Applicant respectfully submits that the combination of limitations in claims 15 and 31 are patentable over the prior art, when each claim is interpreted as a whole.

In addition, the remaining dependent claims 2-14, 16-30 and 32-53, also recite additional features not shown or suggested by the prior art. For example, dependent claim 2 recites “wherein said plurality of data generating machines is capable of transmitting the data utilizing a plurality of data formats, and wherein said at least one computer . . . at least one of reformats and interprets the transmitted data utilizing at least

one of said plurality of data formats **prior to cumulatively storing the transmitted data.**

Dependent claim 4 recites, for example, “wherein at least one of said plurality of data generating machines has **at least one intelligent routing device operatively connected thereto that selects a least cost data transmission path** over at least one of said at least one terrestrial, Internet, satellite and landline network.” Further, claim 5 recites that “at least one gateway device **performing a data transmission protocol conversion** between at least one first network and at least one second network among said at least one of the terrestrial, Internet, satellite and landline networks that operatively communicate with each other.”

Accordingly, for these reasons, and for the reasons discussed above, Applicants respectfully submit that claims 2-14, 16-30 and 32-53 patentably distinguish over the prior art, when each claim is interpreted as a whole, for its specific combination of elements and/or features. Withdrawal of the rejections is respectfully requested.

In addition, Applicant is seasonably traversing the Examiner’s assertion of Official Notice. With respect to claims 3, 17, 29, 33, 43 and 46 the Examiner asserts Official Notice that determining customer habits and preferences based on collected data is old. Applicant strongly disagrees that this is the appropriate Official Notice because the Official Notice taken by the Examiner does not at all consider the **combination** of limitations recited in these claims. Accordingly, Applicant traverses the Official Notice. In addition, Applicant request the Examiner to provide a prior art reference supporting what Applicant believes to be an incorrect Official Notice or an affidavit under 37 C.F.R. Section 1.104(d)(2). In the absence of either, Applicant requests the Examiner to withdraw the rejection.

With respect to the rejection of Claims 4, 18, 34, 47, again the Examiner cites no prior art reference with respect to least cost routing. While least cost routing in of itself may be prior art, Applicant is claiming the combination with the “system for aggregating

and analyzing data from a plurality of data generating machines.” In addition, the Examiner has failed to provide any evidence of motivation in the art at the time of the invention. Accordingly, this **combination** is asserted to be patentable over the prior art.

With respect to the rejection of Claim 13, Applicant traverses this rejection because the Examiner has again not provided any motivation that Applicant believes would have existed at the time of the invention with respect to the claimed feature of replenishment. Accordingly, Applicant request the Examiner to provide a prior art reference or affidavit an affidavit under 37 C.F.R. Section 1.104(d)(2). In the absence of either, Applicant requests the Examiner to withdraw the rejection.

With respect to claims 14, 27, 28 and 30, Applicant traverses this rejection because the Examiner has again not provided any prior art reference or motivation that an advertiser would even realize that access to an aggregation of data was available at the time of the invention. Accordingly, Applicant request the Examiner to provide a prior art reference or affidavit an affidavit under 37 C.F.R. Section 1.104(d)(2). In the absence of either, Applicant requests the Examiner to withdraw the rejection.

With respect to claims 11, 12, 25 and 37-41, Applicant traverses this rejection because the Examiner has again not provided any prior art reference or motivation that audible and/or visual advertisements transmitted in accordance with a predetermined network transmission cost was available at the time of the invention. Accordingly, Applicant request the Examiner to provide a prior art reference or affidavit an affidavit under 37 C.F.R. Section 1.104(d)(2). In the absence of either, Applicant requests the Examiner to withdraw the rejection.

With respect to claim 42, Applicant traverses this rejection because the Examiner has again not provided any prior art reference or motivation that audible and/or visual advertisements is transmitted at one or more times corresponding to a predetermined level of network traffic was available at the time of the invention. Accordingly, Applicant request the Examiner to provide a prior art reference or affidavit an affidavit

under 37 C.F.R. Section 1.104(d)(2). In the absence of either, Applicant requests the Examiner to withdraw the rejection.

With respect to claim 5, Applicant traverses this rejection because the Examiner has again not provided any prior art reference or motivation that performing a data transmission protocol conversion between at least one first network and at least one second network among said at least one of the terrestrial, Internet, satellite and landline networks that operatively communicate with each other was available at the time of the invention. Contrary to the Examiner's statement, Petite does not disclose at Column 9, lines 39-66 the use of a protocol conversion to communicate using a variety of networks. Accordingly, Applicant request the Examiner to provide a prior art reference or affidavit an affidavit under 37 C.F.R. Section 1.104(d)(2). In the absence of either, Applicant requests the Examiner to withdraw the rejection.

With respect to claims 26 and 42, Applicant traverses this rejection because the Examiner has again not provided any prior art reference or motivation that audible and/or visual advertisements is transmitted at one or more times corresponding to a predetermined level of network traffic was available at the time of the invention. Applicant traverses the Examiner's Official Notice because the Examiner has provided no basis as to whether such features would have been known at the time of the invention. Accordingly, Applicant request the Examiner to provide a prior art reference or affidavit an affidavit under 37 C.F.R. Section 1.104(d)(2). In the absence of either, Applicant requests the Examiner to withdraw the rejection.

## **CONCLUSION**

Applicant respectfully submits that, as described above, the cited prior art does not show or suggest the combination of features recited in the claims. Applicant does not concede that the cited prior art shows any of the elements recited in the claims. However, Applicant has provided specific examples of elements in the claims that are clearly not present in the cited prior art.

Applicant strongly emphasizes that one reviewing the prosecution history should not interpret any of the examples Applicant has described herein in connection with distinguishing over the prior art as limiting to those specific features in isolation. Rather, Applicant asserts that it is the combination of elements recited in each of the claims, when each claim is interpreted as a whole, which is patentable. Applicant has emphasized certain features in the claims as clearly not present in the cited references, as discussed above. However, Applicant does not concede that other features in the claims are found in the prior art. Rather, for the sake of simplicity, Applicant is providing examples of why the claims described above are distinguishable over the cited prior art.

Applicant wishes to clarify for the record, if necessary, that the claims have been amended to expedite prosecution. Moreover, Applicant reserves the right to pursue the original subject matter recited in the present claims in a continuation application.

Any narrowing amendments made to the claims in the present Amendment are not to be construed as a surrender of any subject matter between the original claims and the present claims; rather merely Applicant's best attempt at providing one or more definitions of what the Applicant believes to be suitable patent protection. In addition, the present claims provide the intended scope of protection that Applicant is seeking for this application. Therefore, no estoppel should be presumed, and Applicant's claims are intended to include a scope of protection under the Doctrine of Equivalents.

For all the reasons advanced above, Applicant respectfully submits that the rejections have been overcome and should be withdrawn.

For all the reasons advanced above, Applicant respectfully submits that the Application is in condition for allowance, and that such action is earnestly solicited.

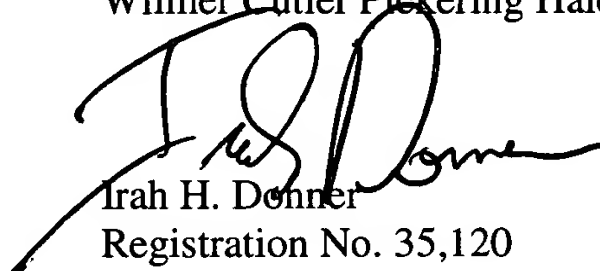
**AUTHORIZATION**

The Commissioner is hereby authorized to charge any additional fees which may be required for this Amendment, or credit any overpayment to Deposit Account No. 08-0219

In the event that an Extension of Time is required, or which may be required in addition to that requested in a petition for an Extension of Time, the Commissioner is requested to grant a petition for that Extension of Time which is required to make this response timely and is hereby authorized to charge any fee for such an Extension of Time or credit any overpayment for an Extension of Time to Deposit Account No. 08-0219.

Respectfully submitted,

Wilmer Cutler Pickering Hale and Dorr LLP



Irah H. Donner  
Registration No. 35,120

1455 Pennsylvania Ave., NW  
Washington, DC 20004  
TEL 202.942.8585  
FAX 202.942.8484  
Date: 1/3/05  
IHD:cj: 110275.4300 US1